



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

VIA ELECTRONIC AND U.S. MAIL

NOV 30 2009

J. Hodge Alves, III
Hand Arrendal, LLC
RSA Tower
11 North Water Street, Suite 30200
Mobile, AL 36602
halves@handarendall.com

Onis Glenn, III
Director, Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
gechols@adem.state.al.us

Olivia Rowell
General Counsel, Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
orowell@adam.state.al.us

Re: Consistency Appeal of Chicago Deer River Properties, LLC, d/b/a Theodore Industrial Port

Dear Mr. Alves, Mr. Glenn, and Ms. Rowell:

On November 25, 2009, Chicago Deer River Properties, LLC, d/b/a Theodore Industrial Port (hereinafter the Appellant) filed an appeal with the Secretary of Commerce (Secretary) pursuant to the Coastal Zone Management Act (CZMA). The Appellant appeals an objection by the State of Alabama regarding a proposed port project at the Theodore Industrial Port in Theodore, Alabama.

The Secretary is responsible for deciding appeals filed under the CZMA. NOAA's Office of the General Counsel assists the Secretary in carrying out this responsibility and has been delegated certain responsibilities associated with processing consistency appeals, including establishing briefing schedules and requiring the submission of briefs and supporting materials on procedural issues.

The following briefing schedule will govern this appeal:

On or before January 6, 2010, the Appellant shall file its principal brief and appendix.



On or before February 16, 2010, the State of Alabama shall file its principal brief, accompanied by any supplemental appendix, if required.

No later than 20 days after receipt of the Respondent's brief, the Appellant may file a reply brief, accompanied by any supplemental appendix, if required.

In addition to substantive arguments surrounding the merits of the appeal, the parties should address the Appellant's allegation that the State's objection was invalid under 15 C.F.R. § 930.129(b), as well as the Appellant's arguments that the Alabama Department of Environmental Management's objections were procedurally deficient.

The deadlines listed above will not be continued absent compelling reasons. At the conclusion of this schedule, this office will, to the extent necessary, identify any additional information required to rule on the appeal. The parties are directed to the briefing and filing requirements contained in regulations published at 15 CFR § 930.127. The parties are advised that all submissions must be served on the opposing party, as required by 15 C.F.R. § 930.127. The parties are also reminded that federal law and regulations govern the merits of this appeal, and that all factual citations are to be made to the record as developed by the parties. The parties may examine past Secretarial consistency appeal decisions at <http://www.ogc.doc.gov/czma.htm>.

Questions should be directed in writing to Thomas Street, NOAA Office of the General Counsel for Ocean Services, at thomas.street@noaa.gov, with a copy to the opposing party.

Sincerely,

A handwritten signature in black ink, appearing to read "Joel La Bissonniere", with a long horizontal flourish extending to the right.

Joel La Bissonniere
Assistant General Counsel
NOAA Office of the General
Counsel for Ocean Services